



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-0571]

RIN 1625-AA08

Special Local Regulation; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations for certain waters of the Choptank River. This action is necessary to provide for the safety of life on these navigable waters located in Cambridge, MD, during a high-speed power boat racing event scheduled from August 19, 2017 through August 20, 2017. This rulemaking prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: This rule is effective from 8:30 a.m. on August 19, 2017, until 5:30 p.m. on August 20, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0571 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, Waterways Management Division, Sector Maryland-National Capital Region, U.S. Coast Guard; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On May 17, 2017, The Kent Narrows Racing Association of Chester, MD notified the Coast Guard that it will be conducting power boat races from 9 a.m. until 5 p.m. on August 19, 2017 and August 20, 2017. The high-speed power boat racing event consists of approximately 60 participants competing on a designated 1-mile oval course in the Choptank River in a cove located between Hambrooks Bar and the shoreline at Cambridge, MD. In response, on July 10, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Choptank River, Cambridge, MD” in the Federal Register (82 FR 31733). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this paddle race. During the comment period that ended August 9, 2017, we received no comments. No public meeting was requested, and none was held.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that

good cause exists for making it effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with a power boat racing event. Hazards from the power boat racing event include participants operating within and adjacent to designated navigation channels and interfering with vessels intending to operate within those channels, as well as operating within approaches to local public and private marinas and other facilities. Additionally, the public has been notified of the event by the event sponsor via local media.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations. The COTP Maryland-National Capital Region has determined that potential hazards associated with the power boat racing would be a safety concern for anyone intending to operate within certain waters of the Choptank River in Cambridge, MD. The purpose of this rulemaking is to protect event participants, spectators and transiting vessels on certain waters of the Choptank River before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a special local regulation, which will be enforced from 8:30 a.m. until 5:30 p.m. on August 19, 2017, and from 8:30 a.m. until 5:30 p.m. on August 20, 2017. The regulated area covers all navigable waters within Hambrooks Bay and Choptank River west and south of a line commencing at the shoreline, at latitude 38°35'00" N., longitude 076°04'43" W., thence east to latitude 38°35'00" N., longitude 076°04'23.7" W., thence north to latitude 38°35'22.7" N., longitude 076°04'23.7" W.,

thence northwest to latitude 38°35'42.2" N., longitude 076°04'51.1" W., at Hambrooks Bar Light LLNR 24995, thence southwest to latitude 38°35'34.2" N., longitude 076°05'12.3" W., terminating at the Hambrooks Bay breakwall as it intersects the shoreline. This rule provides additional information about areas within the regulated area, their definitions, and the restrictions that apply to mariners. These areas include "Race Area," "Buffer Zone" and "Spectator Area".

The duration of the regulated area is intended to ensure the safety of vessels and these navigable waters before, during, and after the power boat racing event, scheduled to occur during August 19–20, 2017. Except for participants, no vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP Maryland-National Capital Region or Coast Guard Patrol Commander. The regulatory text appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to

OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size and enforcement duration of the regulated area, which will impact a small designated area of the Choptank River for 18 hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule allows vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the Coast Guard Patrol Commander deems it safe to do so.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities

between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area lasting for a total of 18 hours (enforcement period). It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A Record of Environmental Consideration (REC) is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the

discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35-T05-0571 to read as follows:

§ 100.35-T05-0571 Special Local Regulation; Choptank River, Cambridge, MD.

(a) Definitions—(1) Captain of the Port Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or a Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

(3) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(4) Spectator means any person or vessel not registered with the event sponsor as a participant or an official patrol vessel.

(5) Participant means any person or vessel participating in the Thunder on the Choptank event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Maryland-National Capital Region.

(b) Regulated area. All coordinates reference Datum NAD 1983.

(1) Coordinates: The following location is a regulated area: All navigable waters within Hambrooks Bay and Choptank River west and south of a line commencing at the shoreline, at latitude 38°35'00" N., longitude 076°04'43" W., thence east to latitude 38°35'00" N., longitude 076°04'23.7" W., thence north to latitude 38°35'22.7" N., longitude 076°04'23.7" W., thence northwest to latitude 38°35'42.2" N., longitude 076°04'51.1" W., at Hambrooks Bar Light LLNR 24995, thence southwest to latitude 38°35'34.2" N., longitude 076°05'12.3" W., terminating at the Hambrooks Bay breakwall as it intersects the shoreline.

(2) Race area: Located within the waters of Hambrooks Bay and Choptank River, in an area bound to the north by the Hambrooks Bay breakwall and bounded to the east by a line drawn along longitude 076°04'37" W.

(3) Buffer zone: All waters within Hambrooks Bay and Choptank River (with the exception of the Race Area designated by the marine event sponsor) bound to the

north by the breakwall and continuing along a line drawn from the east end of breakwall located at latitude 38°35'27.6" N., longitude 076°04'50.1" W., thence southeast to latitude 38°35'17.7" N., longitude 076°04'29" W., thence south to latitude 38°35'01" N., longitude 076°04'29" W., thence west to the shoreline at latitude 38°35'01" N., longitude 076°04'41.3" W.

(4) Spectator area: All waters of the Choptank River, eastward and outside of Hambrooks Bay breakwall, thence bound by line that commences at latitude 38°35'27.6" N., longitude 076°04'50.1" W., thence southeast to latitude 38°35'21.3" N., longitude 076°04'37.2" W., thence southeast to latitude 38°35'21.3" N., longitude 076°04'37.2" W., thence northeast to latitude 38°35'27.8" N., longitude 076°04'30.5" W., thence northwest to latitude 38°35'42.2" N., longitude 076°04'51.1" W., at Hambrooks Bar Light LLNR 24995, thence south to and terminating at the point of origin.

(c) Special local regulations. (1) The Captain of the Port Maryland-National Capital Region or the Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(3) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant, at any time it is deemed necessary for the protection of life or property.

(4) The Race Area is an area described by a line bounded by coordinates provided in latitude and longitude that outlines the boundary of a Race Area within the regulated area defined in paragraph (b)(2) of this section. The actual placement of the Race Area will be determined by the marine event sponsor within the designated boundaries. Only participants and official patrol vessels are allowed to enter the Race Area.

(5) The Buffer Zone is an area that surrounds the perimeter of the Race Area within the regulated area defined in paragraph (b)(3) of this section. The purpose of a Buffer Zone is to minimize potential collision conflicts with participants and spectators or nearby transiting vessels. This area provides separation between the Race Area and Spectator Area or other vessels that are operating in the vicinity of the regulated area defined in paragraph (b)(1) of this section. Only participants and official patrol vessels are allowed to enter the Buffer Zone.

(6) The Spectator Area is an area described by a line bounded by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined in paragraph (b)(4) of this section. Spectators are only allowed inside the regulated area if they remain within the Spectator Area. All spectator vessels

shall be anchored or operate at a no-wake speed while transiting within the Spectator Area. Spectators may contact the Coast Guard Patrol Commander to request permission to either enter the Spectator Area or pass through the regulated area. If permission is granted, spectators must enter the Spectator Area or pass directly through the regulated area as instructed at safe speed and without loitering.

(7) The Coast Guard Patrol Commander and official patrol vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). Persons and vessels desiring to transit, moor, or anchor within the regulated area must obtain authorization from Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander. The Captain of the Port Maryland-National Capital Region can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). The Coast Guard Patrol Commander can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(8) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio.

(d) Enforcement. The Coast Guard may be assisted with marine event patrol and

enforcement of the regulated area by other federal, state, and local agencies.

(e) Enforcement periods. This section will be enforced from 8:30 a.m. until 5:30 p.m. on August 19, 2017, and from 8:30 a.m. until 5:30 p.m. on August 20, 2017.

Dated: ____August 15, 2017____

Michael W. Batchelder
Commander, U.S. Coast Guard
Acting Captain of the Port Maryland-National Capital Region.
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